



United States Attorney District of New Jersey

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OWNER OF BORDENTOWN, NEW JERSEY CAR DEALERSHIP PLEADS GUILTY TO CHECK KITING SCHEME

TRENTON, N.J. – Denis Kelliher, the former owner and operator of Cartec Motors, LLC, a Bordentown, New Jersey car dealership, pleaded guilty today to charges that he conducted a \$7.4 million check kiting scheme, obtained a \$500,000 loan by means of fraud, and then used the fraudulently-obtained loan proceeds in an attempt to pay down the overdraft caused by his check kiting activities, U.S. Attorney Paul J. Fishman announced.

Denis Kelliher, 40, of Toms River, New Jersey, pleaded guilty before Chief Judge Garrett E. Brown, Jr., to Counts Two, Four, and Eight of a Superseding Indictment returned against him on January 14, 2010. Count Two charged the defendant with bank fraud, relating to a check kiting scheme that caused a \$7.4 million overdraft in a Cartec checking account at KeyBank, N.A. Count Four charged the defendant with wire fraud, alleging that the defendant obtained a \$500,000 loan from an individual by means of fraud. Count Eight charged the defendant with money laundering, and alleged that the defendant used the proceeds of the fraudulently-obtained loan to attempt to pay down the overdraft in Cartec's checking account at KeyBank.

According to the superseding Indictment to which Kelliher pleaded guilty and statements made at his guilty plea proceeding:

Kelliher admitted that in January 2008, Cartec opened a checking account at KeyBank, a federally-insured financial institution. Kelliher controlled the activity in the account, on which he was the only signer. In addition, Cartec had an electronic terminal, provided by KeyBank, that allowed Kelliher to scan checks and deposit them into, and initiate wire transfers out of, this account. Kelliher admitted that he knew that the proceeds of checks he deposited in this fashion would be made available for withdrawal before they cleared the banking system.

Kelliher also controlled Cartec accounts at other area banks, including Commerce Bank, 1st Constitution Bank, and Roma Bank. Kelliher admitted that, between March 2008 and July 2008, he engaged in a check kiting scheme by writing checks against these accounts, as well as his personal account at 1st Constitution – when he knew that those accounts did not contain sufficient funds to cover the checks – and then depositing those checks into Cartec's KeyBank account. Kelliher did this with approximately 125 such checks, with a total face value in excess of \$117 million.

Kelliher admitted that he engaged in the scheme in order to artificially inflate the balance in the KeyBank account. He then used the money to pay off various expenses, including Cartec's

floor plan financing line of credit with KeyBank. Kelliher also transferred money from the KeyBank account to the accounts against which he wrote the bad checks, in an effort to cover those checks. In the end, Kelliher admitted, he was unable to cover all of the bad checks that he wrote, ultimately causing a \$7.4 million overdraft in Cartec's account at KeyBank.

In July 2008, Kelliher approached an individual, identified in the Indictment as VICTIM-1, and asked VICTIM-1 to lend Cartec \$500,000. Kelliher told VICTIM-1 that the loan money would be used to obtain inventory, and signed a loan agreement to this effect. In fact, Cartec was at that time having trouble both with its KeyBank floor plan line of credit and the \$7.4 million overdraft, and Kelliher intended to use the loan money to deal with these problems and to make payments on personal loans. Kelliher admitted that upon receiving the \$500,000 from VICTIM-1, he transferred \$483,000 to KeyBank to pay down the overdraft. Kelliher further admitted to giving VICTIM-1 a series of insufficient funds checks as purported repayment of the loan, as well as a series of forged checks and wire transfer receipts as purported evidence of a \$100,000 payment toward the loan balance.

At sentencing, Kelliher faces a maximum potential penalty of 30 years in prison and a fine of \$1 million on the bank fraud charge, a maximum potential penalty of 20 years in prison and a fine of \$250,000 or twice the aggregate gain or loss on the wire fraud charge, and a maximum potential penalty of 10 years in prison and a fine of \$250,000 or twice the aggregate gain or loss on the money laundering charge. Sentencing is scheduled for July 6, 2010.

In determining an actual sentence, Judge Brown will consult the advisory U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence. Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

U.S. Attorney Fishman credited Special Agents of the FBI's Trenton Resident Agency, under the direction of Special Agent in Charge Michael B. Ward in Newark, and the IRS Criminal Investigation Division, under the direction of Special Agent in Charge William P. Offord, with the investigation leading to the Superseding Indictment and today's guilty plea.

The government is represented by Assistant U.S. Attorneys Eric M. Schweiker and Jennifer Davenport of the Criminal Division in Trenton.

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Defense Counsel: Andrea Bergman, Assistant Federal Public Defender, Trenton, New Jersey